



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

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Dear Interested Party:

Thank you for participating in the sportfishing rule development process for 2005-2006. The enclosed document, the Concise Explanatory Statement, is the final step in the adoption of the sportfishing rules. This document contains an explanation of all the rule proposals that were sent out for comment last fall, a summary of the testimony received on each proposal, and any modifications or additions made to the original proposals, as well as the staff recommendation and Commission action on each proposal.

You were sent this document because you have participated in the sportfishing rule process in some way either this year or in the past; perhaps by requesting to be on the mailing list, sending in a proposal, attending a meeting, or submitting testimony. If you do not want to continue to receive mailings about this process, please either mail, call, or e-mail us at the numbers below. Because these documents are costly to mail, we would appreciate your letting us know if you are no longer interested. Another way you can help cut the cost of this process is to allow us to contact you by e-mail rather than US mail. If you were mailed this document but would be willing to receive future notifications by e-mail instead, please send us an e-mail to let us know. Be sure to include the exact name and address we have been mailing to so we can delete it from our US mail list.

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Thank you again.

Sincerely

A handwritten signature in black ink, which appears to read "Patricia Michael".

Patricia Michael
Sportfishing Rules Coordinator

Concise Explanatory Statement

2005-6 Sportfishing Rule Proposals



February 2005

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CONSERVATION REGULATIONS

#1. Dolly Varden/bull trout Removal from Fresh Water

Proposal: Add Dolly Varden/bull trout to the list of species that may not be totally removed from fresh water (except the Columbia River downstream of the Rocky Point/Tongue Point line) unless it is legal to retain them.

Explanation: The Columbia River, Puget Sound and coastal populations of bull trout are currently listed as “threatened” under the provisions of the Endangered Species Act (ESA). Puget Sound and coastal populations of Dolly Varden have been proposed for a “threatened” listing. The proposed rule would provide an extra measure of protection for these fish, since the stress of holding the fish out of the water for a picture, dragging it onto the shore, or removing it from the water and placing it in the bottom of a boat can cause mortality in fish that are released.

Testimony Received:

With fish obviously too small to retain, this makes sense. When the fish approach legal size it may be a problem. Dollies are notorious for rolling in the fishing line more than trout or salmon. Playing it until it is calm enough to quit rolling might cause more damage than quickly beaching it to measure and release. Most dollies I have had to fight for long had numerous line marks on them. If this has already been considered and deemed to have little impact on the survival of released fish, then it makes sense.

Support the proposal. Have read that the federal government is reducing the protection of these fish. State agencies must take up the slack to preserve these wonderful fish.

This is an excellent idea for the waters that do not allow retention. I would suggest that the rule encompass all waters so that only fish that may be retained may be removed from the water.

Since Dolly Varden and bull trout are virtually identical in the field, there should be no retention of Dolly Varden in Puget Sound and coastal rivers. Threatened for one species means threatened for both.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

#2. Illegal to Take, Fish for, Or Possess Lamprey

Proposal: Make it unlawful to take, fish for, or possess Pacific, western brook, and river lamprey statewide.

Explanation: Currently, lamprey are unclassified wildlife and there are no seasons or harvest limits. The three species listed above are the species native to Washington,

and are all currently petitioned for listing under the ESA. Counts of Pacific lamprey at Columbia River dams have been declining dramatically over the past 60 years.

Testimony Received:

This may need clarification regarding a fishery used by the tribes.

Modification: add the provision that anglers may not use lamprey of any type for bait.

Explanation of Modification: We have reports of anglers bringing in different species of lamprey from other areas to use as bait. Usually these fish are cut in strips or ground into a paste. Enforcement officers would have no way of identifying the species of these fish. This provision would close a potential loophole in this conservation regulation.

Staff Recommendation: Adopt as modified. Oregon will be bringing a similar rule to their Commission in April.

Commission Action: Adopted as modified.

#3. Closure Near Toliva Shoal

Proposal: Close the area within 500 yards of the Toliva Shoal buoy (Marine Area 13) to fishing for food fish and game fish, except open May 1 – June 15 with rockfish release.

Explanation: The building of the 2nd Tacoma Narrows Bridge will create artificial rocky habitat around the existing and new bridge towers. The Puget Sound Groundfish Management Plan calls for the closure of new artificial rocky habitats to protect rockfish and other sensitive bottomfishes. The negotiated mitigation plan for the bridge calls for the creation of a small artificial rocky habitat that might attract juvenile rockfishes to the existing artificial habitat at Toliva Shoal. Closure is also sought to protect the new artificial habitat at Toliva Shoal. Salmon fishing is proposed for closure because rockfish may be caught as unintended catch during salmon fishing activities. However, this area is a popular recreational fishing area, especially for lingcod, and the proposal recognizes this fact by allowing fishing during lingcod season (May 1- June 15), while still requiring rockfish release.

Testimony Received:

Strongly support the proposal. I have long been frustrated with divers' and sport fishers' retention of rockfish at this location. This is long overdue for rockfish. Ling cod, however, appear to be healthy here and I applaud you for recognizing that.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

NEW CONSERVATION REGULATION

Clam and Oyster Beach Seasons

The seasons proposed in this process are for clams other than razor clams. Before these seasons can be proposed, survey data from the previous season must be analyzed and negotiations with Tribes or the State Parks & Recreation Commission must take place, so we were not able to send this proposal out with the original packet. The list below details the changes we are recommending for clam and oyster beach seasons after completing these tasks. Beaches not mentioned will retain their current season unless closed by a resource emergency or health advisory.

Clam Season Changes:

Ala Spit

Current Regulation: CLOSED

Proposed Regulation: May 1 through May 31.

DNR 57-B Brown Point

Current Regulation: January 1 through June 30.

Proposed Regulation: January 1 through July 15.

Explanation: Harvest estimates at this beach for the last few years show that the state's share has not been exploited (probably due to the closure of most road access) and the clam resource can easily support a two-week season extension.

Dosewallips State Park:

Current Regulation: March 1 through July 15.

Proposed Regulation: April 1 through July 15.

Explanation: Surveys show a reduction in clam biomass, and we were unable to negotiate a trade with Tribes sufficient to permit last season's March 1 – July 15 season. The resource will still easily support a season shortened by one month (March), which reduces sport opportunity only slightly (there are few daytime low tides in March). This season also includes the Fourth of July weekend, an annual request of Parks.

Duckabush

Current Regulation: March 1 through December 31.

Proposed Regulation: January 1 through December 31.

Explanation: Surveys indicate that the relatively stable and abundant clam population on this beach can easily support a year-round sport fishery.

Eagle Creek

Current Regulation: May 1 through May 31.

Proposed Regulation: CLOSED.

Explanation: This is primarily an oyster beach, and has always had a very small clam population. Surveys over the last few years indicated a reduction in legal clam biomass that will not even support a month-long clam season.

Fort Flagler State Park

Current Regulation: April 15 through June 15.

Proposed Regulation: April 15 through June 30.

Explanation: Surveys show an increase in the clam population for the second year in a row, and a longer sport season is justified. The extended season still allows the beach to be open during “Free Fishing Weekend” per State Parks wishes.

Frye Cove County Park

Current Regulation: January 1 through May 31.

Proposed Regulation: January 1 through June 15.

Explanation: A negotiated trade with treaty Tribes for their clam share allows a two-week extension of the sport clam season at this beach.

Oak Bay County Park

Current Regulation: July 1 through July 15.

Proposed Regulation: July 15 through July 31.

Explanation: This beach only supports a two-week season due to its small size and high sport effort. We recommend shifting that two-week season this year in order to capture one weekend extreme low tide within the season; such tides are the most popular harvesting opportunities at this beach.

Penrose Point State Park

Current Regulation: April 1 through April 30.

Proposed Regulation: April 1 through May 15.

Explanation: Projected sport effort, based on historical surveys, shows that the clam resource on this beach can support a two-week extension.

Point Whitney Tidelands

Current Regulation: March 1 through March 31.

Proposed Regulation: March 1 through April 15.

Explanation: Surveys show a significant increase in the clam population, justifying a longer sport clam season.

Point Whitney Lagoon

Current Regulation: April 1 through May 31.

Proposed Regulation: April 15 through May 15.

Explanation: Surveys indicate a decrease in the clam population this year, although a negotiated trade with Tribes of their share allows a month-long season. The two-week delay in the opening day would continue the trend of having the Lagoon open immediately after the Tidelands close.

Port Townsend Ship Canal/Portage Canal

Current Regulation: January 1 through May 31.

Proposed Regulation: January 1 through June 30.

Explanation: Surveys indicate an increase in the native littleneck clam population on this beach, supporting an extended season.

Rendsland Creek

Current Regulation: Open January 1 through May 31.

Proposed Regulation: CLOSED.

Explanation: This is primarily an oyster beach that has always had a small clam population. In recent years, stream flooding has reduced clam habitat and populations. A sport clam season is no longer justified.

Scenic Beach State Park

Current Regulation: April 15 through June 30.

Proposed Regulation: CLOSED.

Explanation: Due to a surveyed decrease in the oyster population we have recommended an oyster closure. The clam population on this beach has always been very limited, and a closure on both seasons is recommended.

South Indian Island County Park

Current Regulation: April 1 through June 30.

Proposed Regulation: April 1 through August 31.

Explanation: Surveys show a continued increase in the clam population, and an extended season is therefore justified.

Triton Cove Tidelands

Current Regulation: July 15 through September 15.

Proposed Regulation: July 1 through September 30.

Explanation: Surveys indicate an increase in the clam population, justifying a longer sport clam season.

West Dewatto (DNR 44-A)

Current Regulation: CLOSED.

Proposed Regulation: January 1 through April 15.

Explanation: This is primarily an oyster beach, and its clam resource was closed to harvesting in 2004. Surveys this year show a significant increase in the clam population, allowing this beach to be re-opened to the sport clam fishery.

Oyster Season Changes**Dosewallips State Park:**

Current Regulation: March 1 through December 31.

Proposed Regulation: January 1 through December 31.

Explanation: Surveys for the last few years continue to indicate that this beach can easily sustain a year-round oyster season.

Duckabush

Current Regulation: March 1 through December 31.

Proposed Regulation: January 1 through December 31.

Explanation: Oyster season should coincide with clam season at this beach, and the oyster resource here can easily withstand the same proposed season extension.

Frye Cove County Park

Current Regulation: January 1 through May 31.

Proposed Regulation: January 1 through June 15.

Explanation: Oyster season should coincide with the clam season at this beach, and the oyster resource can easily withstand the two-week proposed extension.

Illahee State Park

Current Regulation: May 1 through June 30.

Proposed Regulation: May 1 – June 15.

Explanation: Time constraints have precluded recent oyster surveys on this beach since 2002, and the resulting default reduction in the total allowable catch requires a two-week reduction in the season in 2005.

Kitsap Memorial Park:

Current Regulation: CLOSED.

Proposed Regulation: May 15 through June 30.

Explanation: A survey in summer 2004 shows the oyster resource can re-open in 2005.

Penrose Point State Park:

Current Regulation: April 1 through April 30.

Proposed Regulation: April 1 through May 15.

Explanation: Oyster season should coincide when possible with the clam season at this beach, and the oyster resource can withstand the two-week proposed extension.

Port Townsend Ship Canal/Portage Canal

Current Regulation: January 1 through May 31.

Proposed Regulation: January 1 through June 30.

Explanation: Oyster season should coincide whenever possible with the clam season at this beach, and the oyster resource can withstand the month-long proposed extension.

Scenic Beach State Park

Current Regulation: April 15 through June 30.

Proposed Regulation: CLOSED.

Explanation: Surveys show a significant decrease in the oyster population at this beach. Plans have been negotiated with Tribes prohibiting all sport and tribal commercial harvest on this beach in 2005.

South Indian Island County Park

Current Regulation: April 1 through June 30.

Proposed Regulation: April 1 through August 31.

Explanation: Oyster season should coincide with the clam season at this beach, and the oyster resource can withstand the proposed extension.

Staff Recommendation: Adopt seasons as proposed.

Commission Action: Adopted as proposed.

HOUSEKEEPING REGULATIONS

#4. Lincoln Pond Landlocked Salmon Rules

Proposal: This proposal removes the landlocked salmon rules from Lincoln Pond (Clallam Co).

Explanation: Landlocked salmon rules were added to Lincoln Pond because surplus adult coho salmon from the Dungeness Hatchery were planted in the pond for several years to provide more harvest opportunity at this “juvenile only” lake. However, poor water quality in the small pond led to mortalities and encouraged poor angling ethics (snagging of the fish). Plants of these fish have been discontinued, so there is no need for the landlocked salmon rule on this water.

Testimony Received: None.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

#5. Cowlitz River CLOSED WATERS –Clarify Which Barrier Dam Delineates Closed Area around Cowlitz Salmon Hatchery

Proposal: Fix the language for the CLOSED WATERS designation to say: Closed waters- from 400’ or posted markers below the *Cowlitz Salmon Hatchery* barrier dam to boundary markers near the Cowlitz Salmon Hatchery water intake located about 1700 feet upstream of the *Cowlitz Salmon Hatchery* barrier dam.

Explanation: There are two barrier dams in this area of the Cowlitz River. This proposal simply makes it clear which dam is referred to in the CLOSED WATERS designation.

Testimony Received: None.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

#6. Cowlitz River – Correct CLOSED WATERS Area Around Mayfield Dam

Proposal: Change the CLOSED WATERS area to: from 400’ below the Mayfield Dam *barrier dam* upstream to Mayfield Dam.

Explanation: The rule adopted in 2004 mistakenly listed the closed area as: from 400’ below Mayfield Dam upstream to Mayfield Dam. This opened an area to fishing

between the Mayfield Dam barrier dam and Mayfield Dam. Tacoma Power, the operator of Mayfield Dam, designates this area as a safety zone and does not allow access. This proposal corrects the mistake in the rule adopted last year.

Testimony Received: None.

Modification: Change the CLOSED WATERS area to: from 400' below the Mayfield Powerhouse upstream to Mayfield Dam.

Explanation of Modification: This will avoid any confusion over the term “barrier dam” and give anglers an easily recognized landmark.

Staff Recommendation: Adopt as modified.

Commission Action: Adopted as modified.

#7. Snake and Touchet River Bass Rules

Proposal: Standardize the WAC language for the bass rules on the entire Touchet River and the Snake River to: daily limit 5, no maximum or minimum size, no more than 3 over 15” may be retained.

Explanation: This proposal would fix the WAC language to mirror the management intent on these waters, which is different than the statewide rule for bass. On the Touchet, WAC language applies the special rule only above the forks, when it was meant to apply to the entire river. On the Snake River, some language about maximum and minimum size limits was inadvertently left in the WAC. This proposal fixes these two errors.

Testimony Received: None.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

#8. Gobar Creek Steelhead Release

Proposal: Change the trout rules in Gobar Creek (Cowlitz Co) to: Minimum size 14”, daily limit 2, release wild cutthroat and all STEELHEAD.

Explanation: During the last rule change cycle, in an effort to standardize rules for wild cutthroat protection, the trout rules in a number of streams, including Gobar Creek, a tributary to the Kalama River, were changed to: catch and release only except up to two hatchery steelhead may be retained. While this change was appropriate in the other waters, Gobar Creek is currently part of an ongoing research project comparing the reproductive success of hatchery-origin steelhead to their wild-reared counterparts. Allowing harvest on the hatchery fish (while no harvest is allowed for wild fish) in Gobar Creek would bias the results of the study.

Testimony Received: None.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

#9. Oasis Park Pond Game Fish Daily Limit

Proposal: Change the daily limit on Oasis Park Pond (Grant Co) to a total of any 5 game fish, with no size restrictions.

Explanation: Oasis Park Pond is a small Lake with access controlled by the City of Ephrata. It supports a fishery for juveniles and persons with disabilities with a reduced fee license only. Last year, the City of Ephrata asked WDFW to help them add warmwater species to the pond to extend the fishing season. The daily limit set by the City and posted at the pond is an aggregate limit of 5 game fish, with no restrictions on the size of the fish. This proposal would match the City's rules to avoid any confusion.

Testimony Received: None.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

#10. Area 7E Description and Opening Date for Crab Harvest

Proposal: Describe Area 7E as: The contiguous waters of Marine Area 7 north, south, and east of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island, and a line that extends from the Anacortes ferry dock at Shannon Point, northward to the southeastern tip of Sinclair Island, thence from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island. Make the opening date for the crab fishery in this area July 16.

Explanation: This rule was changed last cycle as part of a large overhaul of the sport rules for crab. The description of the area in the WAC needed to be modified to capture our intent more clearly. The opening date of the fishery was incorrectly adopted as June 16, but should have been July 16, since crab shell condition testing has shown a significant number of soft-shell crab in this area before the middle of July.

Testimony Received: None.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

#11. Skate Creek Cutthroat Release

Proposal: Require the release of all cutthroat in Skate Creek (Lewis Co).

Explanation: Skate Creek is a tributary of the upper Cowlitz River. We have cutthroat release rules in most streams in this area as part of our efforts to recover this species in the upper Cowlitz River watershed.

Testimony Received: None.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

#12. Sturgeon Catch Record Card Required Statewide

Proposal: This proposal would require anglers to record on their catch record card sturgeon caught anywhere in the state.

Explanation: Even though most anglers believe otherwise, current rules only require anglers to record on their catch record cards sturgeon taken from the Columbia River, Grays Harbor, and Willapa Bay (including sturgeon taken from any tributary). This proposal would require anglers to record all sturgeon kept, regardless of where they were caught.

Testimony Received: None.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

NEW HOUSEKEEPING REGULATIONS

Big River – Clallam Co.

Proposal: Change the rules on the Big River to June 1 – February 28 season, selective gear rules for all species, 14" minimum size and daily limit of 2 for trout, and statewide size and possession rules for other game fish, to be consistent with Cedar, Kalaloch, and Mosquito creeks.

Explanation: Before last years' major rule change cycle, the rules for Cedar, Kalaloch, and Mosquito creeks and the Big River were the same (June 1 – February 28 season, 14" minimum size for trout, wild steelhead retention allowed December 1 – February 28, and statewide rules for other game fish). During the rule change cycle, the wild steelhead retention fisheries in all 4 areas were closed, and selective gear rules were added. But while Cedar, Kalaloch, and Mosquito creeks retained the 14" minimum size limit and daily limit of 2 for trout, and statewide size and possession rules for other game fish, Big River rules were changed to catch and release for all game fish. In response to the testimony below, we propose changing the rules in the Big River to match Cedar, Kalaloch, and Mosquito creeks, since these four waters should have similar management schemes.

Testimony Received: I am requesting an amendment to the regulations or rulemaking, or any other regulatory activity the Commission uses to close or change the fishery in my region; that not only includes Big River for wild steelhead retention but also considering the catch and release/selective gear only rule for all game fish in Big River. Your staff should have come before you to correct this, but I have to waste my time and submit to you another load of verbiage that may or may not get your attention. I am disappointed in the WFW Commission for imposing what I consider is another closure of our resources. The National Marine Fisheries Service has been using a term in their "science" called "Non-Consumptive Enjoyment. The definition today parallels "Catch and Release". But it is quite evident in the NMFS practice the near future will find a change in the definition to "Look but don't touch". Is this the direction my state WDFW and the Commission will be heading towards. The science of the Olympic Coast National Marine Sanctuary has been changed to include "all fishing is a privilege, and not an obligation of government to accommodate; citizens have to realize this and understand closures will be a part of the future whether there is data to support the closure or not. It is in the best interest of conservation to close prior to a problem occurring and this may very well prevent the public from enjoying what that have always enjoyed. A privilege is not a right and therefore not a requirement to be consider if it conflicts with conservation" If this is the Commission's direction, in the simple form I will say I have earned the privilege, both in service to my country and the taxes and fees we all pay. In the complex form I will say the existence of the WDFW is a privilege and has to be earned each and every day; close fishing off to the public and the public will close WDFW. That is what you are doing to us that live and fish the Big River. The two science philosophies above are what are being applied in the Ozette. With moratoriums and closures, such as this year's WDFW regulations, it doesn't take a big understanding of the science to know WDFW is instituting the same, and doing so blindly. When you made the closure last February, it's stated several times that you did so based on the 2004-2005 Sportfishing Rule Proposals CES:

82. BIG RIVER WILD STEELHEAD RETENTION PROPOSAL: Close the wild steelhead retention fishery and change to catch and release and selective gear rules for all game fish. (Retain the June 1 - Feb 28 season). EXPLANATION: Big River is a small, non-monitored tributary to Lake Ozette and is vulnerable to over harvest. There is no information to determine the status of the wild steelhead run. It has been open for wild steelhead harvest for many years and only 3 have been reported caught since 1994/95. An average of 4 marked (hatchery) winter steelhead were harvested annually from 1994/95-99/00 (WDFW Catch Record Cards). No steelhead were reported harvested in 2000/01-01/02. Marked summer steelhead were reported caught in 1999/00 (6), 1996/97 (8) and 1994/95 (3). All hatchery fish caught are strays because there are no hatchery releases into Big River. This regulation is consistent with the Olympic National Park regulation in the Ozette River.

What does this reference have to do with the need to change the fishery for all game fish besides Wild Steelhead, and add selective gear rules? Where did you get the data to support the statements made in the CES statement; I certainly want to see that data? When did it become the WDFW's position to close the State to fishing consistent with the radical viewpoints of Olympic National Park? I identified this complex problem in April 2003, to all the WDFW including the Commission. But I never received a response

back. It appears my efforts last year to identify an injustice caused a 180 degree result; instead of the WDFW understanding the actions of ONP were closing off all forms of fishing to include subsistence fishing in the Ozette and to take the appropriate steps as stipulated in the Code of Federal Regulations, you conceded to the whims of the purely environmental movement.

Why the need to be concerned about trout in excess of 14", what's your rationale?

Why the need to close to bass, perch? What data do you have to show any mortality is occurring with salmon or juvenile salmonid, C and R or if keep were allowed?

What can the WDFW say you have done for the Big River or the Ozette? You don't provide any hatchery supplementation, you don't monitor at any level (other than reading a few punch cards), you don't address a sincere interest in the watershed by talking to the people who live or use the river, you have taken up a puppet position as "co-manager" for the Ozette Sockeye which are ESA listed, you provide no bang for the buck, your agency apparently doesn't even know what species of fish inhabit the Big River. Even worse, you didn't follow the recommendations submitted by the WDFW staff in the 2004-2005 Sportfishing Rule CES; you took their blind opinion and magnified it into an even darker realm. All this closure has done is to take away an earned privilege at the expense of good science and common sense.

I support lifting the moratorium on Wild Steelhead Retention, and request you lift the moratorium on the Big River for the same you did for the other 12 rivers. The Big River is not included in the petition that was previously submitted, I am asking you to include as an amendment this system. This river provides a valuable subsistence source to the people who live along side its banks and in the local communities. To make closures directly affects the ability to put food on the table. Evan Jacoby said: "Since the subject matter of your petition is being fully addressed at the Commission meeting on August 28th, whatever decision comes out of that public meeting will answer the petition.

Accordingly, I will not schedule a separate Commission conference call agenda item to address the petition." Listening to the tapes it wasn't. Why?

I also request, as an amendment, you change the regulations for Big River back to 2003-2004 standards. The enacted 2004-2005 regulations close to keep the river for sea run cutthroat trout. They are the only trout in addition to the steelhead that will be of the minimum 14 inch size. They are the primary sought after fish in this river. In addition, the current regulations close to keep large mouth bass and perch; two other sought after fish in this river. The selective gear rule requirement places an unreasonable burden on the ability to catch fish. These waters are not similar to other waters on the Olympic Peninsula: the gradient is very low which contributes to high tannin levels. This dark tea water makes it very difficult to attract a fish using just an artificial lure; bait is an essential component to insure any success. Justification to not allow anything but single barbless hooks because of the effects on juvenile salmon is not relevant; they are not there in great numbers when the river is open to fishing. Given all the obstacles this river contains, such as woody debris and narrow channels, barbed hooks are a needed tool for success. I have found that use of treble hooks actually decrease the incident of mortality to undersized or non-targeted fish.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

Lake Jolanda – Chelan Co.

Proposal: Specify that the “CLOSED WATERS” area in the Wenatchee River from the Highway 2 Bridge at Leavenworth to Lake Wenatchee includes Lake Jolanda.

Explanation: Lake Jolanda is a “wide spot” in the Wenatchee River impounded behind Tumwater Canyon Dam. Because of ESA concerns for upper Columbia steelhead and Chinook stocks, the Wenatchee River is closed to fishing in this area. Recently, some anglers have expressed a desire to fish in the lake under statewide lake rules (open year-round). This rule change is intended to remove any confusion as to the management intent for these waters and make it clear that fishing is not allowed.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

SIGNIFICANT RECREATIONAL OPPORTUNITIES

#13. Columbia River – Drop Ventral Fin Clip Requirement for Steelhead in Hanford Area and Ringold Bank Fishery

Proposal: Drop the ventral fin clip requirement for steelhead caught in the Ringold bank fishery from April 1-15 and in the Columbia River from Highway 395 to the Hanford townsite wooden powerline towers from November 1- March 31.

Explanation: Hatchery steelhead with only an adipose fin clip (no ventral fin clip) are bound for waters above Priest Rapids Dam. By November 1 each year a nearly all upper river steelhead have passed the Dam and are not susceptible to harvest in the Ringold area. Similarly, by April 1, the harvest of surplus steelhead at Ringold will not affect the escapement of upriver fish. This rule change has been effected by emergency rule for the last two years, and it is likely that the situation will remain stable in the foreseeable future.

Testimony Received: None.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

#14. Open Agency-Owned Tidelands in Dabob Bay to the Harvest of Clams and Oysters

Proposal: This proposal would allow the sport harvest of clams and oysters on all agency-owned tidelands in Dabob Bay.

Explanation: The current rules contain a paragraph closing all state-owned tidelands to clam and oyster harvest, except three of the four parcels purchased by WDFW in 1993 from Coast Oyster Company. The East Dabob Bay tideland was closed so that our Engineering Division could survey and mark the newly acquired land. These tasks have long been completed, so there is no reason for this area to be closed to harvest.

Testimony Received: None.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

#15. Puget Sound Shrimp Rules

Proposal:

- 1) Open all the marine areas of Puget Sound to shrimp fishing on the first Saturday in May.

- 2) In all marine areas of Puget Sound during the month of May:
 - a. A minimum shrimp pot mesh size of 7/8" would be required.
 - b. There would be no minimum legal size for shrimp kept.
 - c. Fishers would be allowed to remove shrimp heads in the field.
 - d. The "high effort " shrimp areas (Shrimp Districts and Marine Areas 8, 9, 10 and 11) would be open on Saturdays and Wednesdays with daily fishing hours from 7:00 a.m. to 3:00 p.m. Exception: Hood Canal would retain the 9:00 a.m. to 1:00 p.m. fishing hours. All other marine areas would be open seven days per week, with standard fishing hours.
 - e. Some shrimp areas would close for the season after the spot shrimp quotas are reached (Hood Canal, Discovery Bay, and Port Angeles Harbor Shrimp Districts, Marine Area 10, and Iceberg Point in Marine Area 7).
- 1) In all marine areas of Puget Sound beginning June 1:
 - a. Fishing would be allowed in areas with spot shrimp quota remaining and/or non-spot shrimp opportunity seven days per week with standard fishing hours.
 - b. A minimum shrimp pot mesh size of ½ inch would be allowed.
 - c. There would be a minimum size of one and three sixteenths of an inch for spot shrimp.
 - d. Fishers would be required to retain the heads on spot shrimp while in the field.

In some areas where the spot shrimp quotas have been reached, fishing will remain open for non-spot shrimp with a fishing depth restriction of 150 feet or shallower (200 feet or shallower in Marine Area 7), or area closures in lieu of depth restrictions (e.g. Port Townsend Shrimp District).

Explanation: This proposal standardizes the opening date and the days fishing is allowed throughout Puget Sound. It provides more days of spot shrimp fishing opportunity in the "high effort" areas by distributing the fishing effort throughout Puget Sound. It provides stable and predictable days of fishing opportunity and encourages participation in the non-spot shrimp recreational fisheries by opening this fishery after the primary spot shrimp season has closed

Testimony Received:

I applaud your effort trying to balance conservation with recreational opportunities. One concern I have is that it has been suggested the "high effort" shrimp areas are open 7 a.m. – 3 p.m. on Saturdays and Wednesdays. We SCUBA dive for shrimp. During the night shrimp can be found at about 100 ft. They are too deep during the day. Please

make an exception for divers by having the closing time at midnight only for scuba divers.

I also enjoy the recreational opportunity to night dive for shrimp. Please consider a change to your policy to accommodate.

I SCUBA dive for spot shrimp and know over 100 people who do too. We have a small impact because we usually take only 15-25 shrimp out of the daily limit of 80. At Mukilteo, shrimp can be found as shallow as 70 feet 4 hours after sunset, while they are deeper than 210 feet in the same areas during the day. Recreational diving is usually defined as depths above 130 feet. Using lights and breathing helium gas, we herd the shrimp with sticks into mesh bags or funnels. The shrimp turn to face the light. We are working on ways to dive deeper. We request re-wording of the rule as follows:

d. The “high effort” shrimp areas (Shrimp Districts and Marine Areas 8,9,10, and 11) would be open Saturdays and Wednesdays with daily fishing hours from 7:00 a.m. to 3:00 p.m. Exception: Shrimp may be harvested in these areas from 7:00 a.m. to midnight by fishermen using SCUBA gear. Hood Canal would retain the 9:00 a.m. to 1:00 p.m. fishing hours. All other marine areas would be open seven days per week, with standard fishing hours.

It looks like your proposal for limiting the shrimp catch depth has a very important oversight – no mention of those who hand collect shrimp by the use of SCUBA gear. This would seem that it has bias to those who dive, collect shrimp, and buy licenses. We request an amendment to the proposal: The use of SCUBA equipment may be used to collect shrimp at a depth of 150 feet or less during the hours of 7:00 am to 12:00 midnight and that all species catch limits will still apply to the marine area involved. (3 identical letters).

A major mistake has been made. The proposed rules effectively eliminate SCUBA diving as a method of capturing shrimp. Worse than that, it may lead some divers to endanger their lives in order to reach shrimp during the limited hours allowed. Often during the daylight no shrimp are available at depths less than 130 feet, which is considered the recreational dive depth limit. Exceeding this depth can cause the diver to run out of air or cause decompression sickness (“the bends”). I understand the need to protect the resource, but this rule for SCUBA divers is not needed. They already have special rules for ling cod, and it would not be difficult to allow special rules for shrimp as well. Divers are selective in their harvest and not destructive to the environment compared to pot fisheries. I support the efforts of SCUBA divers to shrimp during the open shrimp season.

I would like the new proposal for shrimp fishing to include a provision for the collection of shrimp by scuba divers. I suggest that the fishing time not close at 3:00 p.m. for divers. We usually fish at night when the shrimp have come up above 103 feet. Closing at 3:00 p.m. would virtually assure that SCUBA divers would not be able to participate in this fishery.

I fish almost exclusively in MA 13, and try to shrimp here. My best day was 6 spot shrimp after 5 pulls at 300 ft. My grand total is 16 spot shrimp in Area 13, and about a pound of non-spots. I've seen very few other shrimpers- most try and then give up. I understand the desire to standardize, but every area is different. I don't have a problem opening a week later, but I object to the proposed mesh size change during May. It only ensures we will be pulling up starfish instead of shrimp. Please allow MA 13 to remain as it has been or with only the later opening date. I seriously doubt there is any science behind the decision so I am making a public record request for the data and documentation that indicate the proposed rules for MA 13 will have an impact on shrimp harvest. If the data are not available, the changes should not be put into effect for this area.

Staff Recommendation: Adopt as proposed. Staff brought the shrimp scuba proponents together with the recreational shrimp advisors who have worked jointly with staff to a tacit agreement for a pilot scuba project for the 2005 season. The details are still being developed but will likely develop around an opportunity during the regular shrimp season (evening hours) in the Edmonds area.

Commission Action: Adopted as proposed.

RULES FROM OTHER FORUMS

#16. Selective Gear Rules for Steelhead Catch-and-Release Fisheries

Proposal: Add selective gear rules to the targeted catch and release fisheries for steelhead during March and April in the following rivers: Bogachiel, Calawah, Clearwater, Dickey, Hoh, Hoko, and Quinault rivers.

Explanation: The moratorium on the harvest of wild steelhead, adopted by the Commission in February 2004, closed wild steelhead harvest fisheries on 12 streams. However, the game fish seasons were not closed, so the result was a targeted catch-and-release fishery in place of the former harvest fisheries for wild steelhead. To be consistent with the department's management approach for wild steelhead catch-and-release fisheries, selective gear rules should be added to these fisheries during the months of March and April. The proposal described above adds selective gear rules to 7 of the 12 streams where wild steelhead harvest was closed. The Green and Pysht rivers and Goodman Creek are not open in March and April, so the rule was not needed there. The Quillayute and Soleduck rivers have salmon fisheries (which require the use of bait) open during March and April, so the rule is not proposed for these rivers. If the steelhead moratorium is rescinded, this proposal will not need to be implemented.

Testimony Received:

I support the selective gear rules as long as motors are allowed for individual waters. I fish the Hoh and believe that anglers should be allowed to fish from boats with small motors.

No – there is no need for them in any of these rivers period! Mortality on released steelhead is very low when handled properly. Dump the idea and put more effort in teaching people how to handle fish to be released.

The sportsman should be able to keep a certain number of wild steelhead because the number of wild steelhead the Indians are harvesting is high in comparison. In the Chehalis river system last winter the Quinalts took 6200+/- steelhead and 2900 were wild. This is discriminating towards sportsmen when they buy a fishing license. Maybe it should be called a “catch and release” license.

I can see there is no end to this madness of catch and release on the Olympic Peninsula. If you are going to let the commission make all the decisions, maybe we should dissolve the WDF&W and turn it over to the commission and all the special interest groups. Then they could destroy the rivers on the Olympic Peninsula as they did in the I-5 corridor. Condominiums and yard of the month comes at a devastating price to the salmonids.

Alternative # 1: Do nothing and allow the wild steelhead retention of one fish per day whether it is retained or released. This creates a 100% mortality rate for fish retained, but reduces the overall mortality rate of steelhead. The runs will increase and provides a trophy fish for guided clients.

Alternative # 2: Shut all Olympic Peninsula Streams down after March 15th to provide maximum escapement for steelhead. This is the most sound method and complies with the state's hatchery cutoff date. The remaining wild steelhead will return in large numbers and the anglers will not have to modify gear to comply with unnecessary regulations.

Alternative # 3: Restrict the number of out-of-state anglers and the number of guides per river and no action is necessary with gear restrictions or one fish per day regardless of wild/hatchery. After all, the regulations only distinguish between "Marked and unmarked", not between "wild and hatchery. Just because they are not marked, doesn't make them wild. Numbers will continue to increase without increased pressure.

Alternative # 4: Give all angling rights to Native Americans and if we want a fish, buy one. Negotiate number of days that netting can occur and we won't have to waste time in meetings, hearings, and all the staff for a required for a sport fishery.

It is time for the WDF&W to start coming up with sound decisions and stop placing more restrictions on the angler. If the special interest groups want to fix a fishery, let them remove all the obstacles in the inland strait rivers, rehab their streams, clean up their backyards, and they won't have to come to the Olympic Peninsula and "Fix ours."

The Commission should still consider and pass this rule even though the moratorium was rescinded. With a fishers ability to kill one native steelhead in place all the other native fish should be released with the least possible harm. Selective gear rules allows for the least harm and should be part of all steelhead regulations where native fish are targeted.

Staff Recommendation: Do not adopt. Because the steelhead moratorium was rescinded and some retention of wild steelhead is allowed on these streams, staff does not recommend adding selective gear rules to these fisheries.

Commission Action: Proposal was not adopted.

#17. Lake Roosevelt San Poil Arm – Begin Closure 1 Month Earlier

Proposal: This proposal would change the date of the closure to fishing for game fish in the San Poil arm upstream of the outlet of French John Lake from Feb 1- May 31 to January 1- May 31.

Explanation: Per an existing Memorandum of Understanding between WDFW and the Colville Confederated Tribes, fishing regulations on Roosevelt Lake are coordinated so that tribal and WDFW fishing regulations are consistent with each other. The Colville Tribe recently passed a new regulation for the San Poil River (including that portion of the river associated with the San Poil Arm of Lake Roosevelt), which extends the seasonal closure to protect a wild stock of rainbow trout in the San Poil River. This proposal would match the WDFW regulation with the tribal regulation.

Testimony Received: None.

Staff Recommendation: Adopt as proposed.

Commission Action: Adopted as proposed.

#18. Allow Only One Single-Pointed Barbless Hook While Fishing for Sturgeon

Proposal: This proposal restricts anglers to use only one single pointed barbless hook while fishing for sturgeon. Bait would still be allowed.

Explanation: This proposal has two major purposes: (1) To reduce mortality on broodstock white sturgeon caused by catch-and-release angling for these fish. Baits are commonly swallowed, sometimes too deep in the gut to extract the hook(s). Most anglers use one single-pointed hook to fish for oversize sturgeon. Baits with two or more single-pointed hooks have a greater likelihood to “deep” hook the fish due to hook placement in the bait, resulting in increased numbers of broodstock retaining hooks. Annual surveys for dead oversize sturgeon consistently turn up carcasses with one to multiple hooks in the gut. (2) To reduce mortality on released sublegal white sturgeon. About eight sublegal white sturgeon are caught for every legal-size white sturgeon retained. A growing number of anglers in this retention fishery are starting to use at least two single-pointed hooks. At times the second “free” hook snags the sublegal fish in the body rather than in the mouth, harming the released fish. This proposal will not be recommended for adoption if the Oregon Commission does not adopt the same restriction.

Testimony Received:

This is a good proposal, but it should include that circle hooks are required when fishing for sturgeon. A single circle hook is very effective and hooks fish in the corner of the mouth.

Ilwaco Charter Association supports the immediate ban on the use of double hooks for sturgeon fishing. The second hook can cause significant mortality to released fish when it hooks the fish in the eyes, gills, belly, etc. We urge you to ban the use of 2 hooks by January 1, 2005, whether Oregon's commission adopts the rule or not.

This is an excellent idea and should be enforced diligently.

Support the use of 1 hook because I have seen the damage that can occur when you use two hooks. This is supposed to be a sport fishery.

This is an excellent idea. At the mouth of the Columbia we have experienced a growing pressure on sturgeon. A deck hand told me the idea of using more than one hook allegedly originated with the Ilwaco Charter fleet, causing a dramatic increase in the retention rate. I think all sport fishing should be barbless hooks. Note: one of the worst decisions was allowing party fishing for sturgeon. When a boat has 10 poles out, it is just like chumming and has a huge impact on catch rates.

Staff Recommendation: Adopt as proposed. Oregon has already adopted this rule in the Columbia River, Young's Bay and the Willamette River up to Willamette Falls, including Multnomah Channel.

Commission Action: Adopted as proposed.

COMMISSION REGULATION ADVISORY – FOR FUTURE CONSIDERATION

The Commission would like to let anglers know that in the future (probably during the next major regulation change cycle) they would like to look at a rule requiring anglers to use only knotless landing nets in all fisheries, statewide. These nets have been shown to be much more "fish friendly" and allow fish that are released to have a better chance to survive. If a rule of this type were adopted, it would not take effect immediately, to allow a smooth transition to the new type of nets.

Testimony Received:

The "knotless net" proposal is absurd at best and micromanaging at worst. What, for example, is the definition of a knot? Or, at the other extreme, one could have a knotless net fabricated from barbed wire.

Your proposal to use knot-less nets will help- many fisherman are not looking for clipped adipose fins until after they have netted them. 9-10 months of media PR could prepare fisherman and tackle shops to change the net types, there are good knotless nets available. Go ahead and make it an advisory that in 2005 knotless nets could be

required in catch and release areas (anywhere there are wild coho). By floating the proposal, you will generate some controversy, but all attention to the issue is good.

This rule is not necessary. Shouldn't fish that are to be released not be netted anyway? I'm assuming this is intended primarily for salmon. Isn't that already the rule for salmon?

It is amazing that your department continues to create more prohibitions on the sport fishing industry without any regard to the same proposals on Tribal and commercial fisheries. Coupled with the myriad of increased regulations on the general fishing population, the sport fishermen have taken a back seat to Tribal and commercial fisheries too many times. It is time to consider sensible legislation that affects all parties equally.

This is an excellent thought but enforcement seems difficult unless you provide for a cut off date that the older style nets can be used.

Puget Sound Anglers Board of Directors voted unanimously to oppose the idea for two main reasons: 1) we are in the 2nd year of a regulation which forbids boating a fish unless it is to be kept. This makes knotless nets superfluous. 2) regardless of the rules for sport fishers, Treaty and non-treaty commercial fishermen will continue to use nylon nets with knots. The rule should apply to everyone or no one.

PSA chapters and state organization (about 2000 people) all voted to oppose the advisory. If there is a problem with the rule to release fish before they are brought on board, and this rule would replace that one, we could understand the reason for it. But a blanket rule such as the one mentioned is not OK with us. So far these nets are of questionable quality, bulky and hard to use. Large fish go right through them. We worry the rule would be used as an excuse to bring fish on board when you shouldn't. Nets should only be used as a last resort. What is the rationale for going knotless? It also is not fair when the commercial and tribal fishermen are allowed to use nets with knots even though they must throw some back. (Vice President of PSA)

Bad idea. Since we can't net/boat any fish we don't plan to keep, what's the difference in nets? Will tribal and non-tribal fishers switch to knotless nets, or is it just that commercials kill all netted fish anyway – let's not get into bycatch! This sounds like a good idea not thought out.

I just bought a high-quality landing net. We netted 0 fish this summer requiring release. We rarely release fish except in the MA 13 coho fishery. Therefore I am making a public record request for the data and accompanying documents which indicates that the proposal will have a deleterious effect on lingcod and salmon in MA 13. If these data are not available, the proposed changes should not be put in effect for Area 13.

Why does the commission want this to be considered? Is there sound evidence that knotless nets do less damage than knotted nets? I am willing to throw away my landing

nets and buy new ones if the reason is scientifically sound, but not if the reason is political.

OTHER ISSUES

The regulation requiring the release of salmon without bringing the on board a boat under a certain length – there is little or no relationship between the length of a vessel and its freeboard, and therefore, the danger of falling overboard during the releasing procedure. Small vessels also roll and move more with the water than do larger ones, so you might as well use the color of the vessel as a determining factor rather than length. Lets keep to the problems that need solving, and remember to keep it simple.

So long and to the extent you rely upon or use so-called tribal fisheries I shall remain hostile to WaDFW, your rules or so called regulations.

One comment is the number of Wild Coho released in Area 1 ocean fishing, recently I noted a much higher rate of Wild fish to marked Hatchery fish, and I also noted a lot of rough handling of these fish before being released. I demonstrated the de-hooker to several "old style" fishermen, (my 70 year old uncles) but I think there is a lot of Coho being hurt in the catch and release process.

I hope in the future some sort of selective wild coho kept can be implemented- there seems to be an increasing number in the ocean, a result of the selective fishery over the past three years.

I have fished 3 times at Westport this summer and for every 3 coho we have caught, 2 have been wild, and most were injured during catching, netting, or releasing. I propose the first 2 fish caught be kept.

A simple suggestion that would greatly enhance the fishing experience for those salmon fisherpeople who fish with a buddy. In Canada you may fish one pole per person plus one pole for the boat. This allows a single person to fish two poles at varying depths for different species. It won't hurt anything because the limits remain the same but it will increase the possibility for catching fish.

The catch and release requirement for sea-run cutthroat in Puget Sound has been going on for a number of years now. I feel we should be allowed to keep one sea-run cutthroat per day in Marine Area 13. It is extremely hard to ask children to throw back their catch and not be able to show it off when they get home. Please reconsider your stand on this ruling.

Sport fishing for sturgeon should only be a take fishery and once the quota is filled, no additional fishing as catch and release. This would save mortality on small fish and end long-term damage to the older fish. The season should not be during spawning and a wider margin of error should be included.

Could there be a better clarification for non-buoyant lures? Bait is a lure, and since it sinks, only one hook is allowed. Is this true for herring or sand shrimp where 2 hooks

are normally used? If you are using such bait, it has to be attached within 3" of the lure?

I would like to see some sections of the Klickitat River banned from fishing from a boat. I think for the betterment of the fishery restriction of fishing from a floating craft for some portion of the river has merit.

Proposed rules failed to address the major loss of opportunity for Dungeness crab.

Rule for barbless hooks is being enforced differently in different areas. When you pinch the barb on a large hook, sometimes it breaks off and sometimes it just bends down against the shank. Do they need to be filed off smooth as if they were manufactured as barbless in the first place? Some enforcement officers think this is the case – the place where the hook breaks off creates a "mini-barb" so the hook is not legally barbless. What is the rule? Why isn't it enforced uniformly?

Clerk/Treasurer for City of Forks supports the Quileute Natural Resources biologist's (Kris Northcut) proposal sent to the Commission in August. The proposal would close fisheries in the upper reaches of the Quillayute River system from February 28 through May 31. These areas include: Dickey River System upstream from the confluence of E&W Fork Dickey; the Sol Duc River System upstream from the pumphouse at the state hatchery; the Calawah River system upstream from the confluence of the N&S Fork Calawah; the Bogachiel River System upstream of the Hwy 101 bridge. This proposal is supported by the City of Forks and West End fishermen. (Consider in next years' major rule change cycle).